

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE APPLICATION OF MAKHPAL
KARIBZHANOVA FOR JUDICIAL
ASSISTANCE PURSUANT TO 28 U.S.C.
§ 1782

Case No. _____
ECF Case

**MEMORANDUM OF LAW IN SUPPORT OF APPLICATION
FOR JUDICIAL ASSISTANCE PURSUANT TO 28 U.S.C. § 1782**

Lewis Baach Kaufmann Middlemiss PLLC, acting on behalf of Makhpal Karibzhanova (“Applicant” or “Makhpal”), respectfully applies for an order of judicial assistance, pursuant to 28 U.S.C. § 1782, appointing John W. Moscow¹ as Commissioner of the Court to issue subpoenas to obtain testimony and documentary evidence to assist in discovery for use in pending Kazakhstan civil proceedings and anticipated recovery actions in foreign jurisdictions.

Makhpal Karibzhanova is a citizen of Kazakhstan and is the former wife of a wealthy and politically connected Kazakh businessman, Aidan Karibzhanov (“Aidan”). In May 2018, a civil court in Kazakhstan granted Aidan’s request for a divorce without a decision on division of Makhpal and Aidan’s marital assets. Makhpal has pursued an equitable division of those assets for the past three years, as provided for under Kazakh law. After encountering multiple roadblocks to a fair hearing in Kazakhstan, including the rejection of timely and properly filed actions on April 22, 2021 and May 10, 2021, on May 17, 2021, Makhpal timely re-filed a lawsuit in the Medeu District Court of the City of Almaty in Kazakhstan (“Kazakh Proceeding”) seeking equitable division of the marital assets. The case is currently proceeding in the Kazakh civil court.

¹ Mr. Moscow is senior counsel at the firm Lewis Baach Kaufmann Middlemiss PLLC and is admitted to appear before the courts in the Eastern District of New York. Mr. Moscow spent over thirty years as a prosecutor at the New York County District Attorney’s Office working with Robert M. Morgenthau, where he founded and supervised the bureau responsible for the prosecution of international economic crime, known colloquially as DANY Overseas.

On May 12, 2021, Makhpal filed a petition for an order of judicial assistance, pursuant to 28 U.S.C. § 1782 in the Southern District of New York (“S.D.N.Y. Application”) seeking to appoint John W. Moscow as Commissioner to take discovery of evidence located in the Southern District for use in the Kazakh Proceeding. On June 4, 2021, she filed a letter update informing the court of anticipated additional courses of recovery asserting claims directly against Aidan’s assets in foreign jurisdictions (“June 4 Letter”). On June 15, 2021, District Judge Katherine Polk Failla granted Applicant’s request (“June 15 Order”).

The relevant facts and information underlying the Kazakh Proceeding and the June 15 Order are set forth in the S.D.N.Y. Application, June 4 Letter, and June 15 Order, incorporated in this application by reference and attached hereto as Exhibits A, B, and C, respectively.

Subsequent to filing the S.D.N.Y. Application and June 4 Letter, Applicant and Mr. Moscow learned that certain persons, entities, and evidence relevant to the Kazakh Proceeding, including some set forth in the S.D.N.Y. Application, are now located or held within the Eastern District of New York rather than the Southern District of New York—e.g. witnesses with offices in Manhattan working remotely from Long Island.

For all the reasons set forth in the S.D.N.Y. Application, June 4 Letter, and June 15 Order, this application meets the factual requirements of 28 U.S.C. § 1782 and the discretionary factors weigh in favor of granting this application.

Wherefore, Applicant respectfully submits that the Application for Judicial Assistance should be granted and that Mr. Moscow should be appointed as a Commissioner of the Court with the authority to issue subpoenas seeking (i) relevant testimony and documents as may be found within the jurisdiction of this Court, including testimony from witnesses and business associates; (ii) documents pertaining to companies and bank accounts associated with Aidan and his nominee

owners; and (iii) records relating to securities ownership, custodianship, and transfers, and documentation and testimony relating to real estate holdings.

Dated: July 13, 2021

Respectfully submitted,



John W. Moscow
Adam S. Kaufmann (pending admission)
A. Mackenna White

LEWIS BAACH KAUFMANN MIDDLEMISS
PLLC
The Chrysler Building
405 Lexington Avenue – 64th Floor
New York, NY 10174
Tel: (212) 826-7001
Fax: (212) 826-7146
john.moscow@lbkmlaw.com
adam.kaufmann@lbkmlaw.com
mackenna.white@lbkmlaw.com